Weinberg v. National Football League Players Association et al Doc. 1 Att. 8

EXHIBIT D

DA1:\421116\01\90X_01!.DOC\99980.0001

Dockets.Justia.com

FILED

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

2006 MAY 24 P 3:52

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

STEVE WEINBERG,

Plaintiff,

v.

JERALD SOWELL,

Defendant.

Civil Action No. 1:06cv611 CMH/TCB

NOTICE OF REMOVAL

To: THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

PLEASE TAKE NOTICE that Defendant Jerald Sowell pursuant to 28 U.S.C. §§ 1441 et seq., hereby removes this action from the Circuit Court for Fairfax County, Virginia (Civil Action No. 2006-5384) in which the action is now pending. In support of this removal, Sowell states:

1. This civil action is subject to this Court's original jurisdiction under 28 U.S.C. §1331 and may be removed to this Court by Defendant Sowell pursuant to 28 U.S.C. §1441(b). The action was filed on May 2, 2006, by Plaintiff Steve Weinberg, formerly a "contract advisor" who provided services to NFL professional football players, against Defendant Jerrald Sowell, a former client of Weinberg. The action seeks to vacate a February 1, 2006 arbitration award by Arbitrator Roger P. Kaplan rejecting as untimely a grievance claim by Weinberg to collect unpaid compensation allegedly owed by Sowell. Exhibit A to Petition to Vacate. Weinberg's

action involves the interpretation and application of the NFLPA Agent Regulations ("Regulations") which require final and binding arbitration of player-agent disputes. Petition ¶¶8, et seq. The Regulations were established by the National Football League Players Association ("NFLPA") as exclusive collective bargaining representative for NFL players through collective bargaining with the NFL clubs pursuant to Section 9(a) of the National Labor Relations Act, 29 U.S.C. §159(a). The Regulations themselves constitute an agreement subject to §301 of the Labor-Management Relations Act, 29 U.S.C. §185. Pursuant to the collective bargaining agreement and the Regulations, the Defendant and Plaintiff entered into a separate contract which, inter alia, required Weinberg to arbitrate all representation disputes with Defendant. Disputes involving interpretation and application of these various agreements are covered by §301 of the Labor Management Relations Act (29 U.S.C. §185), and are governed exclusively by federal law.

2. Under 28 U.S.C. §1441 et seq., the right exists to remove this action from the Circuit Court for Fairfax County, Virginia to the United States District Court for the Eastern District of Virginia, which embraces the place where the action is pending.

3. The Notice of Removal is filed within 30 days after receipt of the Petition by Defendant's agent on May 4, 2006.

4. Copies of the Petition, received by counsel for Defendant Sowell are at Tab 1.

5. A Notification of Removal is being filed in the Circuit Court for Fairfax County, Virginia concurrently with this Notice. A copy of the Notification of Removal is at Tab 2.

WHEREFORE, for the above-stated reasons, Defendant Sowell prays that Civil Action No. 2006-5384, now pending in the Circuit Court for Fairfax County, Virginia be removed to this Court.

Respectfully submitted,

[signature]

Robert E. Paul (VA Bar #009197)
Zwerdling, Paul, Kahn & Wolly, P.C.
1025 Connecticut Avenue, N.W.
Suite 712
Washington, DC 20036-5420
(202) 857-5000

Howard Shatsky
Eastern Athletic Services
11350 McCormick, Suite 800
Hunt Valley, MD 21031
(410) 229-0080

Attorneys for Defendant

May 24, 2006

CERTIFICATE OF SERVICE

Undersigned certifies that the foregoing Notice of Removal was served by facsimile and first-class mail, postage prepaid, this 24th day of May, 2006 on:

Randolph D. Frostick, Esq.
Vanderpool Frostick & Nishanian, P.C.
9200 Church Street, Suite 400
Manassas, VA 20110

Attorney for Plaintiff

Joseph A. Yablonski, Esq.
Yablonski, Both & Edelman
1140 Connecticut Ave., N.W.
Suite 800
Washington, D.C. 20036

and

Christopher R.K. Leibig, Esq.
Zwerling, Leibig & Moseley, P.C.
108 North Alfred Street
Alexandria, VA 22314

Attorneys for the National Football League Players Association

Robert E. Paul